

**BEFORE THE TRIAL CHAMBER****EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA****FILING DETAILS****Case No:** 002/19-09-2007-ECCC/TC**Party Filing:** The Defence for IENG Sary**Filed to:** The Trial Chamber**Original language:** ENGLISH**Date of document:** 21 November 2012**CLASSIFICATION****Classification of the document  
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**IENG SARY'S MOTION TO JOIN NUON CHEA'S PRELIMINARY RESPONSE TO  
CO-PROSECUTORS' FURTHER REQUEST TO PUT BEFORE THE CHAMBER  
WRITTEN STATEMENTS AND TRANSCRIPTS**

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**Co-Prosecutors:**  
CHEA Leang  
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**All Defence Teams****All Civil Parties**

**ECCC Law – ECCC Legal Compendium**

1. Rules 3(1)-(2), 18(1), 20(1)-(2), 50, 53, 55.

**ECCC Jurisprudence and Filings – Already Disclosed on Case File**

2. Letter from the OCIJ to the NUON Chea Defence re: Response to your letter dated 20 December 2007 concerning the conduct of the judicial investigation, 10 January 2008, A110/I, p. 2.
3. Order Issuing Warnings Under Rule 38, 25 February 2010, D367, paras. 8-9.
4. *Case of Kaing Guek Eav “alias” Duch*, 001/18-07-2007/ECCC/TC, Judgement, 26 July 2010, paras. 494-95.
5. IENG Sary’s Motion for the Trial Chamber to Conduct the Trial in Case 002 by Following a Proposed Revised Procedure & Request for an Expedited Stay on the Order to File Materials in Preparation for Trial, 28 January 2011, E9/3, para. 18.
6. IENG Sary’s Response to the Co-Prosecutors’ Rule 92 Submission Regarding the Admission of Written Witness Statements Before the Trial Chamber & Request for a Public Hearing, 22 July 2011, E96/3, para. 21.
7. IENG Sary’s Objections to the Admissibility of Certain Categories of Documents, 6 September 2011, E114.
8. Co-Prosecutors’ Request to Admit Witness Statements Relevant to Phase 1 of the Population Movement, 15 June 2012, E208.
9. Decision on Co-Prosecutors’ Rule 92 Submission Regarding the Admission of Witness Statements and Other Documents Before the Trial Chamber, 20 June 2012, E96/7, paras. 12-13, 17-18, 20-33, footnotes 40, 50.
10. Co-Prosecutors’ Request to Admit Witness Statements Relevant to Phase 2 of the Population Movement and Other Evidentiary Issues with confidential Annexes 1, II, III and Public Annex IV, 5 July 2012, E208/2.
11. Letter from IENG Sary Defence team to Trial Chamber’s Senior Legal Officer titled “Objections to Witness Statements”, 9 July 2012, E96/7/1.
12. Co-Prosecutors’ Further Request to Put Before the Chamber Written Statements and Transcripts with Confidential Annexes 1 to 16, 27 July 2012, E96/8.
13. IENG Sary’s Request to Hear Evidence from the Interpreter Concerning Witness Phy Phoun’s Second OCIJ Interview Whereby Irregularities Occurred Amounting to Subterfuge, 23 August 2012, E221.

14. IENG Sary's Request that the Trial Chamber Seek Clarification from the OCIJ as to the Existence of Any Record Relating to the Questioning of Witness Oeun Tan on 8 October 2008, 29 August 2012, E224.
15. IENG Sary's Request that the Trial Chamber Seek Clarification from the OCIJ as to the Questioning of Witness Norng Sophang on 17 February 2009 and Summon the OCIJ Investigators to Give Evidence Regarding This Interview, 27 September 2012, E234.
16. Trial Chamber Memorandum titled "Forthcoming document hearings and response to Lead Co-Lawyers' memorandum concerning the Trial Chamber's request to identify Civil Party applications for use at trial (E208/4) and KHIEU Samphan Defence request to revise corroborative evidence lists (E223)", 19 October 2012, E223/2, para. 14.
17. IENG Sary's Request for the Trial Chamber to Hold a Public Hearing and Take Evidence Concerning the OCIJ's Widespread and Systematic Practice of Conducting Unrecorded Interviews with Witnesses, 2 November 2012, E241, paras. 2-3.
18. NUON Chea Defence's Preliminary Response to Co-Prosecutors' Further Request to Put Before the Chamber Written Statements and Transcripts, 8 November 2012, E96/8/1, paras. 6-16.

#### **ECCC Trial Transcripts – Already Disclosed on Case File**

19. Transcript, 14 June 2012, E1/87.1, p. 46-48.
20. Transcript, 25 July 2012, E1/96.1, p. 70-72.
21. Transcript, 1 August 2012, E1/100.1, p. 3-14.
22. Transcript, 6 September 2012, E1/123.1, p. 45-46.

#### **ECCC Correspondence**

23. Letter from IENG Sary Defence to RPC and Plenary Secretariat titled "Supplement to Proposed Rule Amendment of Rule 104 concerning Interlocutory Appeals", 12 September 2012 – *Attachment 1*.

**International Jurisprudence, Statutes and Practice Directions****ICTY Jurisprudence – Already Disclosed on Case File**

24. *Prosecutor v. S. Milošević*, IT-02-54-T, Decision on Prosecution's Request to Have Written Statements Admitted Under Rule 92bis, 21 March 2002, paras. 5, 7, 24-25.
25. *Prosecutor v. Galić*, IT-98-29-AR73.2, Decision on Interlocutory Appeal Concerning Rule 92bis(C), 7 June 2002, paras. 13-17, 19-20.
26. *Prosecutor v. Martić*, IT-95-11-T, Decision on Prosecution's Motions for Admission of Transcripts Pursuant to Rule 92 bis (D) and of Expert Reports Pursuant to Rule 94 bis, 13 January 2006, para. 18.
27. *Prosecutor v. Prlić et al.*, IT-04-74-T, Decision on Admission of Evidence Pursuant to Rule 92 bis (A) of the Rules (Brix-Andersen), 23 January 2008, para. 15.
28. *Prosecutor v. Lukić & Lukić*, IT-98-32/1-T, Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 92 bis, 22 August 2008, paras. 19-20.
29. *Prosecutor v. Đorđević*, IT-05-87/1-T, Decision on Prosecution's Motion for Admission of Transcripts of Evidence of Forensic Witnesses in lieu of *Viva Voce* Testimony Pursuant to Rule 92bis, 11 February 2009, paras. 6-7.
30. *Prosecutor v. Đorđević*, IT-05-87/1-T, Decision on Prosecution's Motion for Admission of Transcripts of Evidence in lieu of *Viva Voce* Testimony Pursuant to Rule 92 bis, 16 March 2009, para. 14.
31. *Prosecutor v. Karadžić*, IT-95-5/18-PT, Decision on Prosecution's Third Motion for Admission of Statements and Transcripts of Evidence in lieu of *Viva Voce* Testimony Pursuant to Rule 92 bis (Witnesses for Sarajevo Municipality), 15 October 2009, paras. 7-8, 10.
32. *Prosecutor v. Rasić*, IT-98-32/1-R77.2, Prosecution's Motion for Admission of Evidence Pursuant to Rule 92Bis, 1 July 2011, paras. 11, 15-16.
33. *Prosecutor v. Haradinaj et al.*, IT-04-84bis-PT, Decision on Prosecution's Motion for Admission of Transcripts of Evidence in lieu of *Viva Voce* Testimony Pursuant to 92bis, 22 July 2011, paras. 21-22.
34. *Prosecutor v. Karadžić*, IT-95-5/18-T, Decision on Prosecution Motion for Admission of Milan Tupajić's Evidence in lieu of *Viva Voce* Testimony Pursuant to Rule 92 bis, 24 May 2012, paras. 8, 18.

**ICTY Statutes, Practice Directions and Miscellaneous – Publicly Available Online**

35. Rules of Procedure and Evidence, Rules 6, 39, 47, 62, 65 *ter*, 85(A), 92 *bis* (A).
36. Rules of Procedure and Evidence, amendments, <http://www.icty.org/sections/LegalLibrary/RulesofProcedureandEvidence> (last accessed 16 November 2012).
37. Practice Direction on Procedure for the Proposal, Consideration of and Publication of Amendments to the Rules of Procedure and Evidence of the International Tribunals (issued on 24 January 2002), paras. 1-2, *available at* [http://www.icty.org/x/file/Legal%20Library/Practice\\_Directions/it143\\_amendmentsto\\_rules\\_procedure\\_rev2\\_en.pdf](http://www.icty.org/x/file/Legal%20Library/Practice_Directions/it143_amendmentsto_rules_procedure_rev2_en.pdf) (last accessed 16 November 2012).
38. ICTY Key Figures, *available at* <http://www.icty.org/sections/TheCases/KeyFigures> (last accessed 16 November 2012).

**ICTR Jurisprudence – Already Disclosed on Case File**

39. *Prosecutor v. Bagosora et al.*, ICTR-98-41-T, Decision on Admission of Statements of Deceased Witnesses, 19 January 2005, para. 18.

**Articles**

40. Patricia M. Wald, *The International Criminal Tribunal for the Former Yugoslavia Comes of Age: Some Observations on Day-to-Day Dilemmas of an International Court*, 5 WASH. U. J. L. & POL'Y 87, 99-101 (2001) – **Attachment 2**.
41. John R.W.D. Jones, *The Gamekeeper-Turned-Poacher's Tale*, 2(2) J. INT'L CRIM. JUST. 486 (2004) – **Attachment 3**.